

January 23, 2014

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VIA foiaonline.regulations.gov

RE: FREEDOM OF INFORMATION ACT REQUEST – Wyoming Regional Haze

Dear Ms. Ferguson and Ms. Dygowski:

This is a request submitted pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552, *et seq.*, (“FOIA”). On behalf of the Powder River Basin Resource Council, Sierra Club, and the National Parks Conservation Association, (hereafter “conservation organizations”) I request production of the following documents:

Any and all internal and external correspondence (including correspondence both to and from EPA Region 8 staff), meeting notes, memorandums, and draft rules regarding development or compliance with the Regional Haze Rule for Wyoming dated since May 1, 2013, excluding such documents that appear on regulations.gov in docket numbers EPA-R08-OAR-2011-0400 and EPA-R08-OAR-2012-0026.

Please include all correspondence with PacifiCorp (or Rocky Mountain Power), Basin Electric Power Cooperative, and the state of Wyoming or its agents. Please also include all correspondence with other EPA regional offices, including Region 6 and Region 9, and the EPA Headquarters Office.

As required by FOIA, a response to this request must be made within 20 working days of your receipt of this letter. 5 U.S.C. § 552(a)(6)(A)(i).

The conservation organizations further request a waiver of any applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). FOIA provides for waiver of search and copying fees where disclosure of the requested documents is “in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” Id.; see also 40 C.F.R. § 2.107 (l)(1).

Powder River Basin Resource Council is a statewide advocacy and public education organization devoted to protection of Wyoming’s natural environment with no commercial interest in the requested information. Powder River Basin Resource Council has a proven record of informing the public about Wyoming energy issues, pollution, and power plants via newsletters published every other month, mailings, press releases, and postings on its organizational website (<http://www.powderriverbasin.org/>). The requested information, which is otherwise unavailable to the public, will contribute significantly to public understanding of regional haze and EPA’s approval or development of a regional haze plan for Wyoming. Powder River Basin Resource Council has publicly advocated for a strong regional haze rule that will result in significant reductions of haze-causing pollution from Wyoming facilities. Powder River Basin Resource Council has disseminated information regarding regional haze to its membership; the requested information will assist Powder River Basin Resource Council in providing accurate information to the public.

The Sierra Club has spent years promoting the public interest through the development of policies that protect human health and the environment, and has routinely received fee waivers under FOIA. The Sierra Club is a national, nonprofit, environmental organization with no commercial interest in obtaining the requested information. Instead, the Sierra Club intends to use the requested information to inform the public, so the public can meaningfully participate in evaluating EPA’s operations and activities related to the Clean Air Act’s regional haze requirements in Wyoming.

The Sierra Club and its members have a longstanding interest and expertise in protecting the environment. More importantly, the Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner, and to do so in a manner that contributes to the understanding of the “public-at-large. The Sierra Club intends to disseminate the information it receives through FOIA regarding these government operations and activities in a variety of ways, including but not limited to, analysis and distribution to the media, distribution through publication and mailing, posting on the organization’s website, emailing and list-serve distribution to members.

A fee waiver should also be granted for National Parks Conservation Association (NPCA). Disclosure of the requested records will contribute significantly to the understanding of a broader audience interested in EPA’s efforts to ensure clean air exists in national parks and wilderness areas. NPCA is a national non-profit with a mission to protect and preserve our country's national parks. NPCA has long-standing expertise in air quality issues in our national parks. During the development of air quality regulations impacting national parks, such as the regional haze plans, NPCA has participated in state and federal public comment processes, shared its comments with its members and the wider public, served as a contact for regional and national news media, and submitted public reports on the status of the implementation of the

haze provisions. NPCA has both the ability and intent to disseminate the requested records to the public through the means mentioned above, as well as its own website, e-mail and listserv distribution, and other mechanisms.

NPCA is a tax-exempt nonprofit organization under section 501(c)(3) of the Internal Revenue Code. NPCA has no commercial interest in, and will not benefit financially from, the requested records. The sole interest of NPCA in obtaining the requested records is to inform and educate the public about the history and status of the implementation of the Clean Air Act's haze provisions contained in 42 U.S.C. §§ 169A, 169B, 40 C.F.R. §§ 51.300-51.309. Since NPCA has no commercial interest in the requested records, the request “is not primarily in the commercial interest of the requester.” 43 C.F.R. § 2.19(b)(2). In sum, this request meets both of the factors considered for a fee waiver.

Thank you for your assistance. Please contact me at (307) 672-5809 or sanderson@powderriverbasin.org with any questions concerning this request.

Sincerely,

Shannon Anderson